

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

*****)
STEVEN RAMSEY,)
Plaintiff)
)
v.)
)
JAY CASHMAN, INC.)
Defendant)

**Civil Action No.:
04-CV-10699-RCL**

**JOINT MOTION TO CONTINUE THE PRETRIAL CONFERENCE AND
REFER THE CASE TO MEDIATION**

Now come the parties, in the above captioned matter, and respectfully move this Honorable Court to continue the pretrial conference scheduled for May 24, 2007, and refer the case to the Federal Court's Mediation Program. In support of this motion, the parties state that although the case was previously referred to the Court's Mediation Program, it was never actually mediated. The parties believe it is in their best interest, and in the interest of judicial economy, to refer the case to mediation forthwith.

More specifically, the case was referred to Magistrate Judge Alexander who scheduled Mediation for August 17, 2006. On August 17, 2006, counsel, and their principals appeared for mediation. However, at that time, it was learned that the plaintiff was scheduled for imminent back surgery. Counsel and the Court agreed that it was impossible to responsibly discuss settlement at that time in light of the plaintiff's scheduled surgery. On October 6, 2006, the plaintiff underwent a Metrix microdisectomy at Cape Cod Hospital. This was followed by post operative visits with the treating physician, which in turn, was followed by weeks of physical therapy. Thereafter, Mr. Ramsey was re-examined on the defendant's behalf by Dr. Ronald Birkenfeld. Dr.

Birkenfeld's IME report has been provided to plaintiff's counsel. As such, the parties believe the matter is now ripe for mediation.

Counsel respectfully state that this motion is in the interest of justice and economy and is not interposed for delay. Counsel have diligently pursued this matter but a proper evaluation of the case has been impossible due to the plaintiff's ongoing medical treatment and surgery.

WHEREFORE, the parties jointly move this Honorable Court to continue the pretrial conference scheduled for May 24, 2007, and refer the case to mediation.

Respectfully submitted,

The Plaintiff,
Steven Ramsey
By his Attorney

The Defendant
Jay Cashman, Inc.
By its Attorney

/s/ Samuel J. Rosenthal
/s/ Rudolph V. DeGeorge, II
Barish ♦ Rosenthal
1717 Arch Street
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/s/ Robert J. Murphy
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Certificate of Service

I hereby certify that on May 22, 2007, I electronically filed a Joint Motion to Continue the Pretrial Conference and Refer the Case to Mediation with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Samuel J. Rosenthal and Rudolph V. DeGeorge, II, Barish ♦ Rosenthal, 1717 Arch Street, Philadelphia, PA 19103.

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